

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

PHONE: (732) 536-0200 EXT.1809; (732) 617-7225

web: www.marlb主oro-nj.gov e-mail: zoning@marlb主oro-nj.gov

Chairperson

Michael Shapiro

Vice-Chairperson

Matthew Weilheimer

Secretary

Alan Zwerin

Members

Frank Yozzo

Ira Levin

Jennifer Bajar

Ibrahim El-Naboulsi - Alt #1

Stacey DiGrande - Alt # 2

Zoning Board Clerk

Yvonne Cautillo

Attorney

Weiner Lesniak

Ronald D. Cucchiaro, Esq.

Engineer

Birdsall Engineering

James Priolo, P.E.,

Planner

T & M Associates

Richard Cramer, P.P.

Traffic Engineer

French & Parrello

Mark Kataryniak, PE, PTOE

Administrative Officer

Zoning Officer

Sarah Paris

MINUTES

ZONING BOARD OF ADJUSTMENT

OCTOBER 16, 2012

8:00 p.m.

SALUTE TO FLAG

SUNSHINE LAW READ

PRESENT:

**Michael Shapiro, Jennifer Bajar,
Alan Zwerin, Ira Levin, Stacey Di Grande**

ALSO PRESENT:

**Ron Cucchiaro, Esq, Board Attorney
James Priolo, P.E., Birdsall Engineering, Inc.
Richard Cramer, P.P., T&M Associates
Mark Kataryniak, PE, French & Parello**

ABSENT:

**Ibrahim El Naboulsi, Matthew Weilheimer,
Frank Yozzo**

The minutes of October 2, 2012 meeting were approved:

Offered: Michael Shapiro

Seconded: Alan Zwerin

Ayes: 4

Nays: 0

Absent: 4

No one signed up for Public Session.

ZB12-6455 – Geller, Jeffrey

Public Hearing for approval to construct a 460 square foot addition, exceeding permitted lot coverage for the principal structure and having insufficient distance between structures at 14 Jacata Road, Morganville, Block 180.01, Lot 29, in a R-40/30 Zone.

The Board took jurisdiction. The following evidence was entered:

- A – 1 Petition on Appeal
- A – 2 Denial by Zoning Officer
- A – 3 Indemnification and Hold Harmless Agreement
- A – 4 Disclosure Statement
- A – 5 Tax Collector's Certification
- A – 6 W-9
- A – 7 Notice To Adjoining Property Owners
- A – 8 List of Property Owners within 200 feet
- A – 9 Certified White Receipts and Green Cards
- A - 10 Affidavit of Publication
- A – 11 Affidavit of Service
- A – 12 Affirmation of Local Pay to Play Ordinance
- A – 13 Owners Affidavit of Authorization and Consent
- A – 14 Application Affidavit of Completeness
- A – 15 Survey of Property for Block 342, Lot 13, prepared by
Thomas M Ernst & Associates, 457 Spotswood,
Englishtown Road, Jamesburg, NJ, Dated August 2, 2010
- A – 16 Proposed Addition & Alteration prepared by Kurt Ludwig, AIA, Kurt J Ludwig, AIA, Inc., 77
North Main Street, Milltown, NJ, Dated 2/17/12.
- A – 17 Report prepared for Block 342 Lot 13, by James Priolo, Birdsall Services, 611 Industrial Way
West, Eatontown, NJ, and dated 10/10/12.

Mr. Jeffrey Geller owner and applicant of 14 Jacata Road, Marlboro, was sworn in. He is looking to make the kitchen larger to improve his living area.

Mr. Zwerin inquired about the existing block patio which will be removed.

No questions from the Board.

Mr. Lewis Fein, 16 Jacata Road, Marlboro, requested denial of the application, saying it exceeds permitted lot coverage.

Mr. Cucchiaro stated that the C2 does not require showing hardship; it should be a benefit to entire public.

Ms. Sheila Harris, 11 Owens Road, is afraid it will affect the value of her home.

Mr. Levin asked Mr. Fein if he had a specific objection; Mr. Fein said he only questioned a future sale of the house.

Motion to Workshop

Offered By: Michael Shapiro

Seconded By: Jennifer Bajar

Ms. Bajar stated that the properties are 115 feet away and only .4 over lot coverage.

Mr. Levin also stated that the property behind is a great distance away and with the addition so small, has no issue.

Ms. DiGrande and Mr. Zwerin agree that it is not closer and only one story.

Out of Workshop

Offered By: Michael Shapiro

Seconded By: Jennifer Bajar

Motion to Approve:

Offered By: Michael Shapiro

Seconded By: Alan Zwerin

Ayes: 5

Nays: 0

Absent: 3

Recused: 0

Motion Approved.

ZB12-6438 – FSP-Marlboro, LLC

Continued Public Hearing for approval for amended application to construct a two story, seventy-nine unit Assisted Living Facility with associated parking where Assisted Living is not a permitted use in the OPT II Zone located at 23 Route 520 and 53 Route 520, Marlboro, NJ, Block 176, Lots 38, 39, 40 and 41.

Mark Policastro, Esq., on behalf of the applicant, stated that he noticed for the October 16, 2012 Zoning Board Meeting.

Additional evidence was entered:

- A – 48 Survey/Preliminary Site Plan for Block 176, Lots 38, 39, 40 & 41, prepared by Lawrence Bozek, Dresdner Robin, Hanson Engineering Division, 7 Doig Road, Wayne, NJ, Dated 9/04/12.
- A – 49 Floor Plans prepared by Perkins & Will, Dated September 5, 2012.
- A – 50 Third Planning Review prepared for FSP, Block 176, Lots 38, 39, 40 and 41, by Richard Cramer, PP, T&M Associates, 11 Tindall Road, Middletown, NJ and Dated 9/13/12.
- A – 51 Email regarding ZB12-6438 stating changes do not substantially alter the traffic concerns stated in the last report, forwarded by Mark W. Kataryniak, PE, French & Parrello, 1800 Route 34, Wall, NJ, dated 9/14/12.
- A – 52 Second Review prepared by James Priolo, Birdsall Services Group, 611 Industrial Way, Eatontown, NJ, dated 9/24/12.
- A – 53 Notice of Public Hearing for October 16, 2012, Marlboro Township Zoning Board of Adjustment, Dated October 2, 2012.
- A – 54 List of Property Owners within 200 feet
- A – 55 Certified White Receipts and Green Cards
- A – 56 Affidavit of Publication
- A – 57 Affidavit of Service

Mark Vincent, representing the residents, inquired if the reduction of the buffer, changed the grade. The answer was “no”.

Ronald Cucchiaro, Esq., testimony can be heard, but at this time there can be no vote. The absent Board Members will listen to the tape. Messrs. Policastro and Vincent have no objections.

Changes have been made, the most recent being a reduction from three to two stories.

Lawrence Bozik, P.E., of Dresdner Robin, Hanson Engineering Division, 7 Doig Road, Suite 1, Wayne, remained under oath.

He presented additional evidence:

A – 58 Presented Preliminary Site Plan for a revised two story building, Sheets 3 & 4.

Bulk requirements have changed for the side and rear yards. The FAR still requires a variance. The building height no longer requires a variance.

Mr. Shapiro inquired about the size of the buffer (40 feet), along with the water runoff. Mr. Bozik stated a front to rear flow will be maintained. Runoff in the parking lot will be pretreated and they will fully comply with all state regulations. If the approval moves forward, they will go to NJDEP.

Ms. Bajar inquired about the elevation.

A – 59 Architect's rendering showing elevation of the two story building.

There were no additional questions from the Board.

Public Questions.

Mr. Vincent inquired about the end of the roadway. Mr. Bozik said it was for deliveries.

It is now 80 feet to the building. The buffer area will be reduced.

Mr. Vincent asked if the reduction of the buffer changed the grade; the answer was no. Mr. Vincent also there was no count on how many trees are to be removed.

Mr. Herbert Green, 15 Bluffs Court, Morganville, asked how much further the applicant will be going down the block. It is about fifteen to twenty feet and is not a substantial change.

Michael F. Kauker, Kauker, & Kauker, is accepted as a professional witness. He did read Mr. Cramer's reports and said he is aware of the principal D-1 use variance. The application is for an assisted living which is comparable to other facilities where housing for the aged is beneficial.

Key case that comes into place is the Sica case which imposed a four part test as a basis for considering an application.

- 1. There is a public interest as age 65 is a growing number. Assisted living category is not provided for.**
- 2. The negative criteria are that the neighbors object to the physical presence of the building. The sound can be mitigated with the buffer.**
- 3. Board has responsibility to mitigate regarding the building setback, which is now forty feet.**
- 4. We do not have to show a hardship. The weight of the test is on the negative criteria. There are benefits to making constructive use of this property. The master plan is to make constructive use of vacant land.**

Mr. Kauker said that it is particularly suited: all other senior uses have been provided for, except for this use, and he believes they can complete this aspect of the master plan. The flat location is good; the ingress and egress is a challenge.

Mr. Kauker also spoke on the FAR standard. He also stated they are well under the requirement of the building coverage and the impervious lot coverage. They are lower than the Sunrise facility. It is a more benign use than an office building.

Mr. Cucchiaro stated that the Affordable housing added a special reason to satisfy. Mr. Cramer, PE, stated that affordable housing is 10% of the units or beds. There are ninety beds. He asked if this does establish the town to receive credits. Is the applicant going to adhere to the regulations so the township will get credits for this Affordable? Township should get credit. Mr. Cramer inquired if this facility was going to operate to satisfy the town's 10% to qualify. Mr. Policastro said they are not objecting to deed restriction.

Mr. Cucchiaro asked if there was an objection to making all units (90) acceptable to the COAH. Mr. Cramer said earlier testimony stated there were 72 units, why is 79 now the threshold, in order to comply with the FAR. Mr. Policastro said that they can go smaller; this is what works for the applicant.

Mr. Kauker answered that 79 can be accommodated in the framework of the building, it is a reasonable scale, but the average is up around 85.

No other questions from the Board.

Mr. Mark Vincent provides copies of cases:

A – 60 Unrecorded Appellate Decision – Paramus Case A-6262, 0833 2010.

A - 61 United Water New Jersey Unrecorded Case A-6526-0923, August 17, 2011.

Mr. Cucchiaro stated the Paramus Case is 66 units, which is age restricted and different. Mr. Policastro said they can brief.

Mr. Vincent inquired if there is a need for this facility to be at this particular site. Mr. Policastro said it is accessible to roadways, and surrounded by residential. Mr. Kauker also stated that this facility is not only for Marlboro residents.

Mr. Vincent asked if there is a reason why this location better. Mr. Kauker answered that we do not have to show that this is more beneficial.

Mr. Kauker also stated that the lighting will be minimal.

Lewis Fiorica, 19 Bluffs Court, Morganville inquired about the use of this property. Is this a better use. Mr. Kauker stated that this is a business and residential use. It is a better fit with the neighborhood.

There were no other questions from the public.

Five Minute Recess 8:55 pm.

Mr. David Shropshire, Traffic Engineer, remained under oath. He said that a comparison during the peak hour volume shows no substantial detriment. The eleven o'clock hour is a much lower volume shift (single digit) and that the building does shield the turnover of employees. The activity is relatively small as compared to office hours. During the holidays, visitor hours are usually spread throughout the day.

There were no Board Questions.

Public Questions:

Mr. Herbert Green, 15 Bluffs Court, asked what Mr. Shropshire's view is of the traffic along Route 520. Mr. Shropshire said that the traffic is positive in relation to what is going on in the area.

Mr. Mark Kataryniak stated the county will make a decision as to turning left into the sight. Mr. Cucchiaro stated that this is contingent upon all outside agencies.

Mr. Edward Zglobicki, 51 Route 520, inquired if the project would be more feasible, if there were a left turn. Mr. Shropshire stated the county would address. Mr. Vincent asked if there is no left turn lane, where would cars turn around. Mr. Shropshire answered they would use Bluffs Court.

Mr. Richard Green, 15 Bluffs Court, asked if special events on holidays were taken into consideration. Mr. Shropshire stated the facility usually addresses this. There would normally be a special event less than once a month.

Mr. Kataryniak inquired if parking on site is only by employee. Mr. Shropshire said that something could be set up. Mr. Kataryniak also inquired about additional restrictions, valet parking, and no parking in loading zones.

Ms. Bajar did state there are a number of residential properties that have sheds or swing sets that they may require permits.

Mr. Shapiro inquired as to the disposal of medical waste. Mr. Joseph McElwee, said there are only the red syringes, which requires a license application.

Mr. Policastro requested a special meeting.

Mr. Vincent said he also has a Professional Planner and residents to testify.

Ms. Paris said she will inquire about an October 30, 2012 meeting. Mr. Policastro did sign an Extension of Time.

Meeting was offered to adjourn at 10:40 p.m. by Michael Shapiro. Mr. Alan Zwerin seconded the motion.

MEMORIALIZATIONS

ZB12-6456 – PETROUTSAS, MICHAEL & SANDRA

Memorialization of a resolution for approval to construct a 6' x 9' portico over existing steps having insufficient front yard setback at 4 Pine Lane, Block 399, Lot 6, in the PAC Planned Adult Community zone.

Motion to Approve

Offered: Michael Shapiro

Ayes: 5

Absent: 3

Seconded:

Nays:

Recused:

Alan Zwerin

0

0

Motion to Adjourn at 10:40 p.m.

Offered: Michael Shapiro

Seconded: Alan Zwerin

Respectfully submitted.